

## CONSTRUCTION OF 2000 AMENDMENT

Nothing in amendment by section 125(d) of Pub. L. 106-181 to be construed to authorize Secretary of Transportation to issue waiver or make a modification referred to in such amendment, see section 125(e) of Pub. L. 106-181, set out as a note under section 47107 of this title.

SUBCHAPTER III—AVIATION  
DEVELOPMENT STREAMLINING**§ 47171. Expedited, coordinated environmental review process**

(a) AVIATION PROJECT REVIEW PROCESS.—The Secretary of Transportation shall develop and implement an expedited and coordinated environmental review process for airport capacity enhancement projects at congested airports, general aviation airport construction or improvement projects, aviation safety projects, and aviation security projects that—

(1) provides for better coordination among the Federal, regional, State, and local agencies concerned with the preparation of environmental impact statements or environmental assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) provides that all environmental reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal agency or airport sponsor for such a project will be conducted concurrently, to the maximum extent practicable; and

(3) provides that any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal agency or airport sponsor for such a project will be completed within a time period established by the Secretary, in cooperation with the agencies identified under subsection (d) with respect to the project.

(b) AVIATION PROJECTS SUBJECT TO A STREAMLINED ENVIRONMENTAL REVIEW PROCESS.—

(1) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—An airport capacity enhancement project at a congested airport shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

(2) GENERAL AVIATION AIRPORT CONSTRUCTION OR IMPROVEMENT PROJECT.—A general aviation airport construction or improvement project shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

(3) AVIATION SAFETY AND AVIATION SECURITY PROJECTS.—

(A) IN GENERAL.—The Administrator of the Federal Aviation Administration may designate an aviation safety project or aviation security project for priority environmental review. The Administrator may not delegate this designation authority. A designated project shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

(B) PROJECT DESIGNATION CRITERIA.—The Administrator shall establish guidelines for the designation of an aviation safety project or aviation security project for priority en-

vironmental review. Such guidelines shall provide for consideration of—

(i) the importance or urgency of the project;

(ii) the potential for undertaking the environmental review under existing emergency procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(iii) the need for cooperation and concurrent reviews by other Federal or State agencies;

(iv) the prospect for undue delay if the project is not designated for priority review; and

(v) for aviation security projects, the views of the Department of Homeland Security.

(c) HIGH PRIORITY OF AND AGENCY PARTICIPATION IN COORDINATED REVIEWS.—

(1) HIGH PRIORITY FOR ENVIRONMENTAL REVIEWS.—Each Federal agency with jurisdiction over an environmental review, analysis, opinion, permit, license, or approval shall accord any such review, analysis, opinion, permit, license, or approval involving an airport capacity enhancement project at a congested airport or a project designated under subsection (b)(3) the highest possible priority and conduct the review, analysis, opinion, permit, license, or approval expeditiously.

(2) AGENCY PARTICIPATION.—Each Federal agency described in subsection (d) shall formulate and implement administrative, policy, and procedural mechanisms to enable the agency to participate in the coordinated environmental review process under this section and to ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in subsection (a) in a timely and environmentally responsible manner.

(d) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to each airport capacity enhancement project at a congested airport or a project designated under subsection (b)(3), the Secretary shall identify, as soon as practicable, all Federal and State agencies that may have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project.

(e) STATE AUTHORITY.—Under a coordinated review process being implemented under this section by the Secretary with respect to a project at an airport within the boundaries of a State, the Governor of the State, consistent with State law, may choose to participate in such process and provide that all State agencies that have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project, be subject to the process.

(f) MEMORANDUM OF UNDERSTANDING.—The coordinated review process developed under this

section may be incorporated into a memorandum of understanding for a project between the Secretary and the heads of other Federal and State agencies identified under subsection (d) with respect to the project and, if applicable, the airport sponsor.

(g) **USE OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAMS.**—

(1) **IN GENERAL.**—The Secretary may utilize an interagency environmental impact statement team to expedite and coordinate the coordinated environmental review process for a project under this section. When utilizing an interagency environmental impact statement team, the Secretary shall invite Federal, State and Tribal agencies with jurisdiction by law, and may invite such agencies with special expertise, to participate on an interagency environmental impact statement team.

(2) **RESPONSIBILITY OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAM.**—Under a coordinated environmental review process being implemented under this section, the interagency environmental impact statement team shall assist the Federal Aviation Administration in the preparation of the environmental impact statement. To facilitate timely and efficient environmental review, the team shall agree on agency or Tribal points of contact, protocols for communication among agencies, and deadlines for necessary actions by each individual agency (including the review of environmental analyses, the conduct of required consultation and coordination, and the issuance of environmental opinions, licenses, permits, and approvals). The members of the team may formalize their agreement in a written memorandum.

(h) **LEAD AGENCY RESPONSIBILITY.**—The Federal Aviation Administration shall be the lead agency for projects designated under subsection (b)(3) and airport capacity enhancement projects at congested airports and shall be responsible for defining the scope and content of the environmental impact statement, consistent with regulations issued by the Council on Environmental Quality. Any other Federal agency or State agency that is participating in a coordinated environmental review process under this section shall give substantial deference, to the extent consistent with applicable law and policy, to the aviation expertise of the Federal Aviation Administration.

(i) **EFFECT OF FAILURE TO MEET DEADLINE.**—

(1) **NOTIFICATION OF CONGRESS AND CEQ.**— If the Secretary determines that a Federal agency, State agency, or airport sponsor that is participating in a coordinated review process under this section with respect to a project has not met a deadline established under subsection (a)(3) for the project, the Secretary shall notify, within 30 days of the date of such determination, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Council on Environmental Quality, and the agency or sponsor involved about the failure to meet the deadline.

(2) **AGENCY REPORT.**—Not later than 30 days after date of receipt of a notice under para-

graph (1), the agency or sponsor involved shall submit a report to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Council on Environmental Quality explaining why the agency or sponsor did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, opinion, permit, license, or approval.

(j) **PURPOSE AND NEED.**—For any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal or State agency that is participating in a coordinated review process under this section and that requires an analysis of purpose and need for the project, the agency, notwithstanding any other provision of law, shall be bound by the project purpose and need as defined by the Secretary.

(k) **ALTERNATIVES ANALYSIS.**—The Secretary shall determine the reasonable alternatives to an airport capacity enhancement project at a congested airport or a project designated under subsection (b)(3). Any other Federal agency, or State agency that is participating in a coordinated review process under this section with respect to the project shall consider only those alternatives to the project that the Secretary has determined are reasonable.

(l) **SOLICITATION AND CONSIDERATION OF COMMENTS.**—In applying subsections (j) and (k), the Secretary shall solicit and consider comments from interested persons and governmental entities in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(m) **MONITORING BY TASK FORCE.**—The Transportation Infrastructure Streamlining Task Force, established by Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews), may monitor airport projects that are subject to the coordinated review process under this section.

(Added Pub. L. 108–176, title III, § 304(a), Dec. 12, 2003, 117 Stat. 2534; amended Pub. L. 115–254, div. B, title I, § 191(a), title V, § 539(q), Oct. 5, 2018, 132 Stat. 3238, 3371.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(1), (b)(3)(B)(ii), and (l), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

Executive Order No. 13274, referred to in subsec. (m), is set out as a note under section 301 of this title.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, § 191(a)(1), inserted “general aviation airport construction or improvement projects,” after “congested airports,” in introductory provisions.

Subsec. (b)(2), (3). Pub. L. 115–254, § 191(a)(2), added par. (2) and redesignated former par. (2) as (3).

Subsecs. (c)(1), (d), (h), (k). Pub. L. 115–254, § 191(a)(3)–(6), substituted “subsection (b)(3)” for “subsection (b)(2)”.

Subsec. (l). Pub. L. 115–254, § 539(q), substituted “4321” for “4371”.

## EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out an Effective Date of 2003 Amendment note under section 106 of this title.

## FINDINGS

Pub. L. 108-176, title III, § 302, Dec. 12, 2003, 117 Stat. 2533, provided that: “Congress finds that—

“(1) airports play a major role in interstate and foreign commerce;

“(2) congestion and delays at our Nation’s major airports have a significant negative impact on our Nation’s economy;

“(3) airport capacity enhancement projects at congested airports are a national priority and should be constructed on an expedited basis;

“(4) airport capacity enhancement projects must include an environmental review process that provides local citizenry an opportunity for consideration of and appropriate action to address environmental concerns; and

“(5) the Federal Aviation Administration, airport authorities, communities, and other Federal, State, and local government agencies must work together to develop a plan, set and honor milestones and deadlines, and work to protect the environment while sustaining the economic vitality that will result from the continued growth of aviation.”

## LIMITATIONS

Pub. L. 108-176, title III, § 308, Dec. 12, 2003, 117 Stat. 2539, provided that: “Nothing in this subtitle [subtitle A (§§ 301-309) of title III of Pub. L. 108-176, enacting this subchapter, amending sections 40104, 47106, and 47504 of this title, and enacting provisions set out as notes under this section], including any amendment made by this title [enacting this subchapter and amending sections 40104, 40128, 47106, 47503, and 47504 of this title], shall preempt or interfere with—

“(1) any practice of seeking public comment;

“(2) any power, jurisdiction, or authority that a State agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project; and

“(3) any obligation to comply with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 [4321] et seq.) and the regulations issued by the Council on Environmental Quality to carry out such Act.”

## RELATIONSHIP TO OTHER REQUIREMENTS

Pub. L. 108-176, title III, § 309, Dec. 12, 2003, 117 Stat. 2540, provided that: “The coordinated review process required under the amendments made by this subtitle [enacting this subchapter and amending sections 40104, 47106, and 47504 of this title] shall apply to an airport capacity enhancement project at a congested airport whether or not the project is designated by the Secretary of Transportation as a high-priority transportation infrastructure project under Executive Order 13274 [49 U.S.C. 301 note] (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews).”

### § 47172. Air traffic procedures for airport capacity enhancement projects at congested airports

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may consider prescribing flight procedures to avoid or minimize potentially significant adverse noise impacts of an airport capacity enhancement project at a congested airport that involves the construction of new runways or the reconfiguration of existing runways during the environ-

mental planning process for the project. If the Administrator determines that noise mitigation flight procedures are consistent with safe and efficient use of the navigable airspace, the Administrator may commit, at the request of the airport sponsor and in a manner consistent with applicable Federal law, to prescribing such procedures in any record of decision approving the project.

(b) MODIFICATION.—Notwithstanding any commitment by the Administrator under subsection (a), the Administrator may initiate changes to such procedures if necessary to maintain safety and efficiency in light of new information or changed circumstances.

(Added Pub. L. 108-176, title III, § 304(a), Dec. 12, 2003, 117 Stat. 2537.)

## EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out an Effective Date of 2003 Amendment note under section 106 of this title.

### § 47173. Airport funding of FAA staff

(a) ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the services of consultants—

(1) to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project;

(2) to conduct special environmental studies related to an airport project funded with Federal funds;

(3) to conduct special studies or reviews to support approved noise compatibility measures described in part 150 of title 14, Code of Federal Regulations;

(4) to conduct special studies or reviews to support environmental mitigation in a record of decision or finding of no significant impact by the Federal Aviation Administration; and

(5) to facilitate the timely processing, review, and completion of environmental activities associated with new or amended flight procedures, including performance-based navigation procedures, such as required navigation performance procedures and area navigation procedures.

(b) ADMINISTRATIVE PROVISION.—Instead of payment from an airport sponsor from funds apportioned to the sponsor under section 47114, the Administrator, with agreement of the sponsor, may transfer funds that would otherwise be apportioned to the sponsor under section 47114 to the account used by the Administrator for activities described in subsection (a).

(c) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b)—

(1) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;